

[First Reprint]

SENATE, No. 3305

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 7, 2021

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

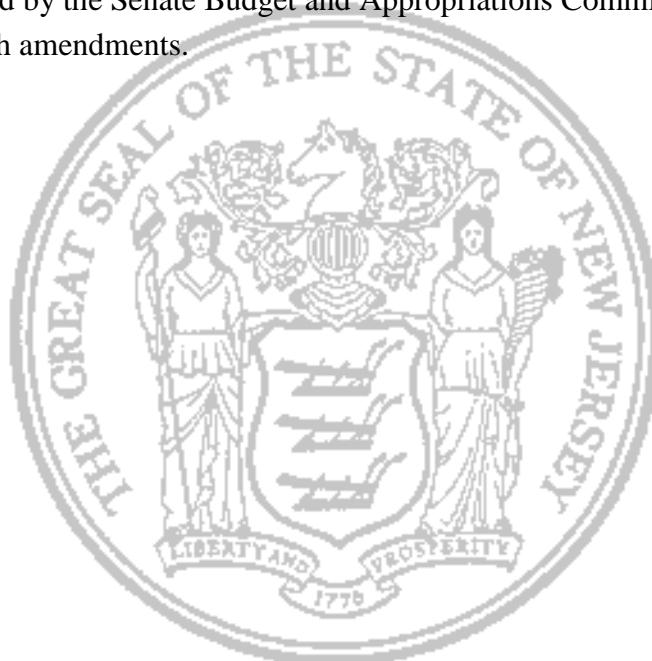
Senators O'Scanlon, Singleton and Holzapfel

SYNOPSIS

Allows tax credits for nonresidential building improvement expenses to reduce spread of COVID-19.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on January 21, 2021, with amendments.



(Sponsorship Updated As Of: 1/28/2021)

1 AN ACT allowing ¹**[a gross income tax credit]** tax credits¹ for
2 nonresidential building improvement expenses to reduce the
3 spread of COVID-19, supplementing Title 54A of the New
4 Jersey Statutes ¹and P.L.1945, c.162 (C.54:10A-1 et seq.)¹.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. a. For taxable years 2020, 2021, and 2022, a taxpayer shall be
10 allowed a credit against the tax otherwise due under the New Jersey
11 Gross Income Tax Act in an amount determined pursuant to subsection
12 b. of this section, for the taxpayer's expenditures during the taxable
13 year for nonresidential building improvements to reduce the spread of
14 COVID-19. Taxpayer expenditures includable in the calculation of the
15 credit are expenditures for:

16 (1) bi-polar ionization and ultraviolet lighting to disinfect indoor
17 air and surfaces, including in elevators and work areas;

18 (2) infrared thermometers for screening visitors in common areas;

19 (3) transparent sneeze guards or shields;

20 (4) touchless entryway and security to reduce the spread of
21 COVID-19;

22 (5) ventilation improvements to reduce the spread of COVID-19;
23 and

24 (6) other ¹materials, supplies, and¹ equipment to reduce the spread
25 of COVID-19 and necessary to create a safe environment for
26 employers and employees to return to their work spaces.

27 b. The amount of credit allowed pursuant to subsection a. of this
28 section shall be equal to:

29 75 percent of the taxpayer's expenditures for a work location of
30 less than 30,000 square feet, but the credit for such expenditures shall
31 not exceed \$100,000 per location; and

32 50 percent of the taxpayer's expenditures for a work location of
33 30,000 square feet or more, but the credit for such expenditures shall
34 not exceed \$250,000 per location.

35 ¹c. A taxpayer that claims a credit pursuant to this section shall
36 add back to gross income the amount of any deducted expenditures
37 includable in the calculation of the credit.¹

38 ¹**[c.] d.**¹ The order of priority of the application of the credit
39 allowed pursuant to this section and any other credits allowed pursuant
40 to the New Jersey Gross Income Tax Act for a taxable year shall be as
41 prescribed by the director. The amount of the credit applied under this
42 section against the tax imposed for a taxable year, together with any
43 other credits allowed by law, shall not reduce the tax liability to an
44 amount less than zero. ¹**[Any remaining credit shall not be carried**

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted January 21, 2021.

1 forward to another taxable year.】 The amount of the tax credit
2 otherwise allowed under this section that cannot be applied for the
3 taxable year may be carried forward, if necessary, to the seven taxable
4 years following the taxable year for which the tax credit was first
5 allowed.¹

6 ¹【d.】 e.¹ A business entity that is classified as a partnership for
7 federal income tax purposes shall not be allowed the credit directly,
8 but the amount of credit of a taxpayer in respect of a distributive share
9 of partnership income shall be determined by allocating to the taxpayer
10 that proportion of the credit acquired by the partnership that is equal to
11 the taxpayer's share, whether or not distributed, of the total distributive
12 income or gain of the partnership for its taxable year ending within or
13 with the taxpayer's taxable year.

14 A taxpayer that is a New Jersey S corporation shall not be allowed
15 the credit directly, but the amount of credit of a taxpayer in respect of
16 a pro rata share of S corporation income shall be determined by
17 allocating to the taxpayer that proportion of the credit acquired by the
18 New Jersey S corporation that is equal to the taxpayer's share, whether
19 or not distributed, of the total pro-rata share of S corporation income
20 of the New Jersey S corporation for its privilege period ending within
21 or with the taxpayer's taxable year.

22 ¹【e.】 f.¹ Notwithstanding any provision of the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
24 the director is authorized to adopt immediately upon filing with the
25 Office of Administrative Law such rules and regulations shall be
26 effective for a period not to exceed ¹【360 days】 18 months¹ following
27 the date of filing and may thereafter be amended, adopted, or
28 readopted by the director in accordance with the requirements of
29 P.L.1968, c.410 (C.52:14B-1 et seq.).

30
31 ¹2. a. For privilege periods ending in calendar year 2020, 2021,
32 and 2022, a taxpayer shall be allowed a credit against the tax imposed
33 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount
34 determined pursuant to subsection b. of this section, for the taxpayer's
35 expenditures during the privilege period for nonresidential building
36 improvements to reduce the spread of COVID-19. Taxpayer
37 expenditures includable in the calculation of the credit are
38 expenditures for:

39 (1) bi-polar ionization and ultraviolet lighting to disinfect indoor
40 air and surfaces, including in elevators and work areas;

41 (2) infrared thermometers for screening visitors in common areas;

42 (3) transparent sneeze guards or shields;

43 (4) touchless entryway and security to reduce the spread of
44 COVID-19;

45 (5) ventilation improvements to reduce the spread of COVID-19;
46 and

1 (6) other materials, supplies, and equipment to reduce the spread
2 of COVID-19 and necessary to create a safe environment for
3 employers and employees to return to their work spaces.

4 b. The amount of credit allowed pursuant to subsection a. of this
5 section shall be equal to:

6 75 percent of the taxpayer's expenditures for a work location of
7 less than 30,000 square feet, but the credit for such expenditures shall
8 not exceed \$100,000 per location; and

9 50 percent of the taxpayer's expenditures for a work location of
10 30,000 square feet or more, but the credit for such expenditures shall
11 not exceed \$250,000 per location.

12 c. A taxpayer that claims a credit pursuant to this section shall
13 add back to entire net income the amount of any deducted expenditure
14 includable in the calculation of the credit.

15 d. The director shall prescribe the order of priority of the
16 application of the credit allowed under this section and any other
17 credits allowed by law against the tax imposed under section 5 of
18 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under
19 this section against the tax imposed pursuant to section 5 of P.L.1945,
20 c.162 (C.54:10A-5) for a privilege period, together with any other
21 credits allowed by law, shall not reduce the tax liability to an amount
22 less than the statutory minimum provided in subsection (e) of section 5
23 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit
24 otherwise allowed under this section that cannot be applied for the
25 privilege period may be carried forward, if necessary, to the seven
26 privilege periods following the privilege period for which the tax
27 credit was first allowed.

28 e. Notwithstanding any provision of the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
30 the director is authorized to adopt immediately upon filing with the
31 Office of Administrative Law such rules and regulations shall be
32 effective for a period not to exceed 18 months following the date of
33 filing and may thereafter be amended, adopted, or readopted by the
34 director in accordance with the requirements of P.L.1968, c.410
35 (C.52:14B-1 et seq.).¹

36
37 ¹[2.] 3.¹ This act shall take effect immediately and apply to
38 expenditures made after March 9, 2020 and before January 1, 2023.